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# TRANSMITTAL FORM

(To be used for all correspondence  
after initial filing)

Application Number	09/912,266
Filing Date	July 24, 2001
First Named Inventor	James E. Fleming
Group Art Unit	1641
Examiner Name	Gabel Gailene
Attorney Docket No.	390054.402

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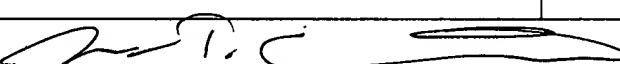
DEC 27 2002

## ENCLOSURES (check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Assignment Papers (for an Application)	<input type="checkbox"/> CD(s), Number _____ of CD(s) _____
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance
<input checked="" type="checkbox"/> Amendment/Response	<input type="checkbox"/> Request for Corrected Filing Receipt	<input type="checkbox"/> Communication to Group
<input type="checkbox"/> After Final	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input checked="" type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Information Disclosure Statement; Form PTO-1449	<input type="checkbox"/> Declaration	<input checked="" type="checkbox"/> Return Receipt Postcard
<input type="checkbox"/> Cited References	<input type="checkbox"/> Statement under 37 CFR 3.73(b)	<input type="checkbox"/> Additional Enclosure(s) (please identify below): _____ _____ _____
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Response to Missing Parts under 37 C.F.R. 1.52 or 1.53	<input type="checkbox"/> Small Entity Statement	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	<input type="checkbox"/> Request for Refund	

## Remarks

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Individual Name	William T. Christiansen, Ph.D.	 00500 PATENT TRADEMARK OFFICE
Signature		
Date	December 19, 2002	

VIA EXPRESS MAIL



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1/6/03  
NW

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : James E. Fleming et al.  
 Application No. : 09/912,266  
 Filed : July 24, 2001  
 For : METHOD AND APPARATUS FOR VIABLE AND NONViable  
 PROKARYOTIC AND EUKARYOTIC CELL QUANTITATION  
 Examiner : Gailene Gabel  
 Art Unit : 1641  
 Docket No. : 390054.402  
 Date : December 19, 2002



Commissioner for Patents  
 Washington, DC 20231

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RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents:

In response to the Restriction Requirement dated September 30, 2002, please extend the period of time for response two months, to expire on December 30, 2002. Enclosed are a Petition for an Extension of Time and the requisite fee.

In response to the Restriction Requirement dated September 30, 2002, applicants hereby elect Group II, claims 9-24 and 27-28, drawn to a method of quantitating total populations and live cells and kit therefore, for examination at this time.

In view of the above election, applicants hereby cancel claims 1-8, 25-26, 29-32 and 33 without prejudice to the filing of any divisional, continuation, or continuation-in-part application. Consideration of the elected claims is now requested.

Respectfully submitted,

James E. Fleming et al.

Seed Intellectual Property Law Group PLLC

William T. Christiansen, Ph.D.

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